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BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

Periodic Reporting (UPS Proposal One) **Docket No. RM2020-9**

COMMENTS OF AMAZON.COM SERVICES, INC.
(December 15, 2020)

Amazon.com Services, Inc. (ASI) respectfully submits these comments pursuant to Order No. 5738 in response to Proposal One of United Parcel Service, Inc. (UPS).[1]

Introduction and Summary

ASI is the wholly-owned logistics and distribution subsidiary of Amazon.com, Inc. (Amazon). American consumers rely on commercial package carriers like the Postal Service and its competitors to deliver packages to consumers who have made purchases from Amazon and from the hundreds of thousands of independent merchants (many of which are small businesses) that sell on Amazon.com. Amazon serves a variety of customers and focuses on price, convenience, and selection. Amazon works with a variety of carriers, including both the Postal Service and UPS.

To retain and win business, package service providers must price competitively, innovate, and continually focus on increasing efficiency and quality. This benefits everyone, from small businesses selling handmade goods, ready-to-prepare meals, or bespoke clothing; to retailers finding new customers online; and to consumers shipping gifts for the holidays.

[1] *See* Petition of United Parcel Service, Inc. for the Initiation of Proceedings to Make Changes to Postal Service Costing Methodologies (May 29, 2020) (UPS Petition).

A recurring threat to the millions of people and businesses that benefit from competition in the package industry, and to the Postal Service's continuing to win and retain business, is the possibility that the Postal Service's private competitors will succeed in their attempts to suppress price competition by increasing the costs to be borne by the Postal Service's competitive products.

Forcing the Postal Service to raise its prices to uncompetitive levels would also greatly harm the Postal Service itself, impeding its ability to participate effectively in the important and fast-growing package delivery business, and thereby threatening its ability to provide universal service, especially in rural areas that most heavily rely on the Postal Service for affordable delivery services. Finally, pricing the Postal Service out of the competitive product delivery space would harm letter and other market-dominant mailers by undermining the Postal Service's financial stability.

To defend the interests of consumers, retailers, and other package shippers on minimum price and related cost issues, Amazon, through ASI, has filed comments in several Commission dockets in recent years. Amazon submits these comments for the same reason.

At issue on this docket, misapprehending the Postal Service's cost models and misstating their results, UPS incorrectly asserts that the current cost models improperly fail to attribute $500 million of peak-season costs to competitive products. While UPS terms this as an "unexplained" costs problem, it could more properly be characterized as a problem that UPS has invented for litigation purposes. Contrary to UPS's assertions, the Postal Service's existing cost models do capture seasonal variations in product costs. UPS further asserts that all of these purportedly unexplained costs must be attributable to competitive products, but this ignores the substantial peak season increases in First-Class Mail and international mail volume. The UPS proposal to assign these additional costs to competitive products would violate the statutory requirement that costs can only be attributed to products "through reliably identified causal relationships." 39 U.S.C. § 3631(b).

The UPS proposal is the most recent in a decades-long campaign, repeatedly rejected by the Commission and the courts, to expand and distort the statutory cost attribution requirement for its own competitive advantage. The Commission should reject the UPS proposal and should encourage the Postal Service to continue to use, and refine as necessary, sound causation models to analyze seasonal effects on costs.

The UPS Proposal Continues a Pattern of Presenting Unsound Cost Attribution Proposals to Obtain a Competitive Advantage

In asserting that there are hundreds of millions of dollars of additional seasonal costs that should be attributed to competitive products, UPS follows a game plan it has attempted to execute without success for many years. UPS has made a series of costing proposals with the same goal, to force the Postal Service to increase its prices in order to benefit UPS competitively, and has been unsuccessful in these efforts.[2] Despite these repeated efforts, UPS has identified no significant errors in the Commission-approved cost attribution methods.[3] The Commission has repeatedly found that many of the UPS proposals are an attempt to impose improper fully-allocated cost price floors on the Postal Service.[4] Such fully-allocated costing was also rejected by

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[2] *See*, *e.g.*, Order No. 2792 in Docket No. RM2015-7, *Periodic Reporting (Proposal Thirteen)* (October 29, 2015); Order No. 3506 in Docket No. RM2016-2, *Periodic Reporting (UPS Proposals One, Two, and Three)* (September 9, 2016), *aff'd*, *United Parcel Service, Inc. v. Postal Regulatory Comm'n*, 890 F.3d 1053 (D.C. Cir. 2018), *cert denied*, 139 S. Ct. 2614 (2019). Order No. 2915 in Docket No. RM2016-3, *Periodic Reporting (Proposal Twelve)* (Dec. 22, 2015); Order No. 3973 in Docket No. RM2016-12, *Periodic Reporting (Proposal Four)* (June 22, 2017); Order No. 3641 in Docket No. RM2016-13, *Changes Concerning Attributable Costing* (Dec. 1, 2016); Order No. 4259 in Docket No. RM2017-8, *Periodic Reporting (Proposal Four)* (Dec. 1, 2017); Order No. 4399 in Docket No. RM2017-9, *Periodic Reporting (Proposal Five)* (Feb. 6, 2018); Order No. 4228 in Docket No. RM2017-10, *Periodic Reporting (Proposal Six)* (Nov. 20, 2017); Comments of UPS in Docket No. RM2018-2, *Periodic Reporting Rules* (March 7, 2018).

[3] *See* Docket No. ACR2016, USPS responses to Chairman's Information Request No. 11 (Feb. 3, 2017) (responding to various costing anomalies alleged by UPS); *id.*, USPS response to Chairman's Information Request No. 13 (Feb. 10, 2017) (same).

[4] *See* Order No. 3506 in Docket No. RM2016-2, at 104 (first full paragraph); PRC Docket No. R94-1 Op. & Rec. Decis. (Nov. 30, 1994) at App. F at 7; PRC Docket No. R87-1 Op. & Rec. Decis. (Mar. 4, 1988) ¶ 3024 n.8; PRC

Congress in the Postal Reorganization Act of 1970 and the Postal Accountability and Enhancement Act of 2006.[5]

UPS has also used the annual compliance review process each year to restate its disagreements with the Postal Service's Commission-approved costing methods, often in materially identical language from year to year.[6] The Commission has been diligent in addressing these erroneous and often repetitive arguments, and has afforded UPS the opportunity in this case and others to propose changes in the costing models. The Commission's willingness to entertain these claims is commendable; it is also a hallmark of the Commission's transparent process for continuously reviewing and, where appropriate, refining its models to improve their accuracy consistent with sound costing principles. The inescapable conclusion is that UPS is simply putting old wine in a new bottle. UPS's current proposal merely repeats arguments the Commission has previously considered and rejected. The Commission should likewise reject UPS's current proposal because its adoption would not result in an improvement in the cost attribution models and would violate the statutory causation requirement.

Docket No. R84-1 Op. & Rec. Decis. (Sept. 7, 1984) ¶ 3052. *See also* ASI comments in RM2016-2 (Jan. 25, 2016) at 30, 39-49, 53-56 (discussing precedents).

[5] During the deliberations leading to enactment of the Postal Reorganization Act, UPS argued that the prices charged for parcel post service (the predecessor of today's package delivery services) should be required to cover fully allocated costs. PRC Docket No. R71-1 Op. & Rec. Decis. (June 5, 1972) at 44-46; *Newsweek, Inc. v. USPS*, 663 F.2d 1186, 1198-99 (2d Cir. 1981) (quoting S. Rep. No. 91-912, at 17 (1970)), *aff'd sub nom. Nat'l Ass'n of Greeting Card Publishers v. USPS*, 462 U.S. 810 (1983). The 1970 legislation, however, required only that the rates charged for each mail class cover its "attributable" costs. 84 Stat. at 760 (enacting former 39 U.S.C. § 3622(b)(3)); R71-1 Op. & Rec. Decis. at 44-46. Although a 1999 precursor to the PAEA would have required that competitive products cover fully-allocated costs, the law ultimately enacted in 2006 left the Commission's attributable cost standard and test for cross-subsidy unchanged. 39 U.S.C. §§ 3622(c)(2), 3633(a)(1), and 3633(a)(2); S. Rep. No. 108-318 (2004) at 9-10; H.R. Rep. No. 109-66, pt. 1 at 49 (2005).

[6] Compare *e.g.,* UPS comments in Docket No. ACR2018 with its Comments in Docket No. ACR2017, at 1 (referring to a "profound" shift in the Postal Service's business rather than a "seismic" shift; sentence otherwise the same in each year's comments); *id.* describing investments and operations as "dedicated to delivering" parcels that in the prior year were described as "designed to deliver" parcels); at 3 (stating that cost attribution levels "do not hold up" rather than that they "are puzzling"); and 4 (referring to a conclusion as "unavoidable" that the previous year was "unmistakable").

The Commission Has Already Rejected Many of the Arguments UPS Raises

Given that the UPS proposal is simply a variant of its prior efforts to foist improper costing methodologies on the Commission in order to increase the cost floor for Postal Service package delivery prices, it is not surprising that the Commission has already rejected material portions of UPS's current position. For example, in the 2018 annual compliance proceeding UPS asserted, as it does here, that the Postal Service's costing models do not account for seasonal variations in costs. The Commission considered and rejected that argument:

> This conclusion by UPS that seasonal trends are not reflected is incorrect. This assertion overlooks the fact that the Commission's costing methodology is designed to estimate costs on an annual basis, so any seasonal differences are captured in the annual totals. Distribution keys for costs are created on a quarterly basis—to the extent that parcel volume is greater in one quarter than in others, the current methodology incorporates and reflects those data.[7]

UPS also assumes incorrectly that competitive products are the only products with higher peak season volumes, and uses that incorrect assumption to assert that $500 million in purportedly "unexplained" peak season costs should be assigned in full to competitive products. Again, the Commission rejected that argument in the 2018 Annual Compliance Proceeding:

> The Commission also notes that demand for both Competitive and Market Dominant products increases during peak season, and, as a result, seasonal increases in costs are not exclusively attributable to Competitive products.[8]

UPS's proposal once again involves a form of fully-allocated costing as a remedy, suggesting that the "unexplained" costs it has identified should be assigned to competitive products as a group, and then allocated on a *pro-rata* basis by weighted volume to individual competitive products. *See* UPS Petition at 40. As noted above, the Commission has repeatedly rejected similar

[7] PRC Docket No. ACR2018, Annual Compliance Determination Report for Fiscal Year 2018("2018 Annual Compliance Report") (Apr. 12, 2019) at 121 (citations omitted).
[8] 2018 Annual Compliance Report, at 121 (citing USPS elasticity regression estimates).

UPS proposals to adopt approaches that would produce outcomes "tantamount to fully-allocated costing," finding that such approaches would "result in costs being allocated to specific products or groups of products on a basis other than casual relationships," in violation of the PAEA.[9]

UPS's Arguments Continue to be of No Merit In Any Event

Even were it not foreclosed by prior Commissions decisions, UPS's position is of no merit. The deficiencies were outlined by the Postal Service's witness Dr. Bradley at the September 29 Technical Conference. Dr. Bradley began by noting that, contrary to UPS's contention, seasonal costs are in fact currently included in the accrued cost base used for calculating product costs.[10] The UPS proposal "fails to reflect that the established methodology accounts for the higher accrued costs during seasonal peaks."[11] Given that the UPS proposal is entirely premised on the supposed failure of the methodology to account for the higher costs of season peaks, this shortcoming is alone enough to reject the proposal.

The UPS proposal also understates peak season volume variable costs, and thus overstates the institutional costs that it seeks to assign to competitive products.[12] Indeed, the UPS approach actually predicts *decreases* in city and rural carrier volume variable costs for December relative to November.[13] This reflects two other errors in UPS's presentation. First, it ignores seasonal peaks that occur before December, such as Marketing Mail that has a pronounced peak centered on October of each year, and political mail.[14] Second, it fails to forthrightly acknowledge that the

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[9] PRC Docket No. RM2017-1, Order No. 4963 (Jan. 3, 2019) at 35-36 (citing PRC Docket No. RM2017-1, Order No. 4402 (Feb. 8, 2018) at 81-82); *see also* PRC Docket No. ACR2018, Annual Compliance Determination Report for Fiscal Year 2018 (Apr. 12, 2019) at 121.

[10] Response of the United States Postal Service to Order No. 5687 Regarding Technical Conference Material (September 28, 2020), Seasonal Volume Variations and Product Costing, Prof. Michael D. Bradley (Bradley Presentation) at 3.

[11] *See* Bradley Presentation at 18. *See also id.* at 16 (noting that the established incremental cost methodology "accounts for peak season costs by including the relevant seasonal volume variable, product specific, and inframarginal costs in each product's incremental cost.")

[12] *See id.*, at 18-22.

[13] *See id.*, at 21.

[14] *See id.*, at 5.

volume increase at peak in First-Class Mail is many times larger than the increase in all domestic competitive products combined.[15] UPS focuses on percentage changes, but as Dr. Bradley explained relatively small volumes can have large percentage changes, and in assessing the relative impact of different volumes on Postal Service costs the UPS approach can be misleading, as it is here.[16] Moreover, UPS also ignores that the percentage change in international mail exceeds the percentage change in competitive products.[17] In sum, Dr. Bradley's presentation confirms the Commission's prior findings that competitive volumes contribute to seasonal peak costs, but are not the sole cause of seasonal peak cost increases as UPS asserts.

Finally, Dr. Bradley pointed out that the nature of the operational response to peak volume determines how the resulting costs should be incorporated into product costs, and that seasonal volume variable and incremental costs should be calculated using the well-established methodology for attributing any type of cost to products.[18] The Postal Service has developed its costing models over time under Commission oversight and with transparency to all stakeholders. Continued refinement of that methodology is preferable to the ad hoc proposals that UPS offers to further its own interests. The UPS proposals are unsound and would hurt competition, consumers, business and any other parties that rely on the Postal Service to provide efficient, cost-effective service.

[15] *See id.*, at 8.
[16] *See id.*, at 9.
[17] *See id*.
[18] *See id.*, at 8.

CONCLUSION

The Commission should reject the UPS proposal.

Respectfully submitted,

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